

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CONNIE ARNOLD,	)	
	)	02:05-cv-602-GEB-GGH
Plaintiff,	)	
	)	
v.	)	<u>ORDER</u>
	)	
SACRAMENTO DOUBLETREE HOTEL;	)	
DOUBLETREE HOTEL CORPORATION;	)	
RED LION INNS OPERATING L.P.;	)	
WESTBOY LLC; THE BOYKIN GROUP,	)	
INC.; BOYKIN LODGING COMPANY,	)	
	)	
Defendants.	)	
_____	)	

On January 4, 2007, the parties filed a "Consent Decree and Order" ("Decree"). The Decree reveals the parties have settled this action, and that their settlement includes remedial measures. The parties assume in the Decree that the federal court will exercise jurisdiction over the Decree.

The parties' agreement that the federal court will exercise jurisdiction over their Decree "is not binding on the court." Arata v. Nu Skin Int'l, Inc., 96 F.3d 1265, 1269 (9th Cir. 1996). Settlement agreements are contracts, and the "automatic jurisdiction over such contracts is in no way essential to the conduct of federal-

1 court business." Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S.  
2 375, 381 (1994).

3 When deciding whether to exercise jurisdiction as the  
4 parties request, "it is helpful briefly to examine the relevant  
5 differences between settlements and consent decrees generally" since  
6 the parties' characterization of their Decree as a "consent decree"  
7 does not govern how it is ultimately defined. Smyth ex rel. Smyth v.  
8 Rivero, 282 F.3d 268, 279-80 (4th Cir. 2002).

9 A consent decree has elements of both judgment and  
10 contract, a dual character that results in  
11 different treatment for different purposes. Thus,  
12 a consent decree embodies an agreement of the  
13 parties and thus in some respects is contractual  
14 in nature. But it is an agreement that the  
15 parties desire and expect will be reflected in,  
16 and be enforceable as, a judicial decree that is  
17 subject to the rules generally applicable to other  
18 judgments and decrees.

19 The parties to a consent decree expect and achieve  
20 a continuing basis of jurisdiction to enforce the  
21 terms of the resolution of their case in the court  
22 entering the order.

23 Because it is entered as an order of the court,  
24 the terms of a consent decree must also be  
25 examined by the court. . . . Because the consent  
26 decree does not merely validate a compromise but,  
27 by virtue of its injunctive provisions, reaches  
28 into the future and has continuing effect, its  
terms require more careful scrutiny. Even when it  
affects only the parties, the court should,  
therefore, examine it carefully to ascertain not  
only that it is a fair settlement but also that it  
does not put the court's sanction on and power  
behind a decree that violates Constitution,  
statute, or jurisprudence.

\*\*\*

By contrast, a private settlement, although it may  
resolve a dispute before a court, ordinarily does  
not receive the approval of the court. Nor is a  
private settlement agreement enforceable by a  
district court as an order of the court unless the  
obligation to comply with its terms is made part  
of the order of dismissal-either by separate

1 provision (such as a provision 'retaining  
2 jurisdiction' over the settlement agreement) or by  
3 incorporating the terms of the settlement  
agreement in the order.

4 Id. at 280-81 (internal citations and quotation marks omitted).

5 Although the parties characterize their settlement as a  
6 consent decree, their settlement is functionally equivalent to a  
7 private settlement over which exercise of jurisdiction is not  
8 required.

9 The remedial portion of the Decree, which the parties  
10 designate as "Description of Injunctive Relief," includes the  
11 requirement that agreed upon remedial measures be made in accordance  
12 with "the more stringent of the standards and specifications for  
13 disabled access as are set forth in the California Code of  
14 Regulations, Title 24, The Building Standards Code, and the Americans  
15 with Disabilities Act Accessibility Guidelines." (Decree, Ex. B at  
16 2.) This portion of the Decree is inconsistent with the requirements  
17 of Federal Rule of Civil Procedure 65(d). Rule 65(d) requires that  
18 "[e]very order granting an injunction . . . shall be *specific in terms*  
19 [and] shall describe in reasonable detail, *and not by reference to*  
20 *. . . other document[s]*, the act or acts sought to be restrained."  
21 Fed. R. Civ. P. 65(d) (emphasis added); William Keeton Enters. v. A  
22 All Am. Strip-O-Rama, Inc., 74 F.3d 178, 182 (9th Cir. 1996).

23 The lack of specificity in the standard applicable to this  
24 portion of the Decree is such that the Court's sanction power should  
25 not be put behind it. This does not mean, however, that the provision  
26 is an insufficient standard for a private settlement. Therefore, the  
27 Decree will not be treated as a consent decree. Rather, it will be  
28 treated as a private settlement. Jessup v. Luther, 277 F.3d 926, 929

1 (7th Cir. 2002) (indicating that a private settlement agreement over  
2 which jurisdiction is not retained could be enforceable in court "in  
3 the usual way, that is, by a fresh suit.").

4 Even though the parties' settlement agreement provides that  
5 an injunction will issue, "a federal judge . . . is not mechanically  
6 obligated to grant an injunction for every violation of law."  
7 Weinberger v. Romero-Barcelo, 456 U.S. 305, 313 (1982) (citing  
8 Tennessee Valley Auth. v. Hill, 437 U.S. 153, 193 (1978)). "The  
9 requirements for the issuance of [an] injunction are the likelihood of  
10 substantial and immediate irreparable injury and the inadequacy of  
11 remedies at law." Easyriders Freedom F.I.G.H.T. v. Hannigan, 92 F.3d  
12 1486, 1495 (9th Cir. 1996) (citation and quotation marks omitted);  
13 eBay Inc. v. MercExchange, LLC, 126 S. Ct. 1837, 1839 (2006) (assuming  
14 without deciding that four factors apply to a decision whether to  
15 issue an injunction). The parties have neither shown that a court  
16 order is necessary to enforce any provision of their settlement  
17 agreement, nor that Plaintiff lacks an adequate remedy at law to  
18 enforce the settlement agreement. Since the parties represent they  
19 have agreed to settlement terms and indicate that Defendants will  
20 comply with them, reason has not been provided for issuance of an  
21 injunction or other order to enforce any aspect of the settlement.

22 Since the parties have settled this action and have agreed  
23 to dismiss the action with prejudice, this action is dismissed with  
24 prejudice. Cf. Oswalt v. Scripto, Inc., 616 F.2d 191, 194-95 (5th

25 ///

26 ///


27 ///

28 ///

1 Cir. 1980) (revealing that when a settlement is tantamount to a  
2 stipulated dismissal, a dismissal order should issue).

3 IT IS SO ORDERED.

4 Dated: January 9, 2007

5  
6   
7 \_\_\_\_\_  
8 GARLAND E. BURRELL, JR.  
9 United States District Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28